

REMARKS

Amendments to the Claims

Applicants currently amend claims 12, 13, 14, 15, and 16, and add new claim 17. Support for the amendments to the claims and new claims may be found throughout the specification as originally filed. Applicants submit that the amendments to the claims and new claim introduce no new matter.

Request for an Interview Before the Next Office Action

Applicants respectfully request an interview with the Examiner before the next Office action to discuss the patentability of the currently amended and new claims pursuant to 37 C.F.R. §1.133(a)(2). The Examiner is invited to contact Applicants' below-identified representative to schedule an interview at the Examiner's convenience.

Rejection Under 35 U.S.C. § 103: Gach in view of Graboski and Flanagan

In the final Office action, claims 12 and 16 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 4,815,618 to Gach ("Gach") in view of U.S. Patent No. 6,117,506 to Graboski *et al.* ("Graboski") and further in view of U.S. Patent No. 6,082,568 to Flanagan ("Flanagan"). Applicants respectfully traverse the rejection and submit that amended claims 12 and 16 are patentable over the cited references.

Applicants' amended claim 12 recites a process for bottling a fluid in which a fluid-filled extrusion blow moulded bottle is fitted and then induction heat sealed with a neck and cap assembly. The neck and cap assembly includes a foil that completely seals the base portion of the neck and cap assembly. After the neck and cap assembly is fitted to the bottle, the fitted bottle and neck and cap assembly are induction heat sealed to further bond the foil to the bottle body to completely seal the bottle body.

Applicants' amended claim 16 recites a thin walled plastic bottle assembly. The bottle assembly includes a bottle-body, a neck assembly, a tearable sealing foil, and a cap. The tearable sealing foil is bonded to the bottom portion of the neck assembly and later, after the bottle-body has been filled with a fluid, is bonded to the open mouth of the bottle-body.

Gach teaches a closure having a foil liner that is held within the closure cap for application to a container neck. Following application to the container neck, Gach's membrane is heat welded to the container. However, in contrast to Applicants' claimed process, Gach does not teach or suggest that its foil liner is sealed to its cap closure prior to being fitted to its container. Instead, Gach teaches a foil liner 56 that is held within a closure 18 by a friction fit between a base section 32 and a flange 60 prior to being fitted to a bottle. Gach at col. 3, lines 3-14. "After the closure is placed onto the filled container[,] the foil coating is heated by an induction coil sufficiently to weld the foil to the disc 62, the lower face of section 32, and the lip of neck 14." Gach at col. 3, lines 35-39; *see also* Gach at col. 1, lines 53-61. Accordingly, Gach's foil liner 56 is allegedly bonded to both Gach's closure 18 and Gach's container 10 in a single step after Gach's closure and container are fitted together.

Graboski does not cure the deficiencies of the teachings of Gach. Graboski teaches an extrusion blow molded bottle containing three integrally molded layers of synthetic resin. Graboski does not teach or suggest a neck and cap assembly that is pre-sealed with a foil. Additionally, Graboski does not teach or suggest a foil that is sealed to both a cap assembly and a bottle following an induction heat sealing step.

Flanagan does not cure the deficiencies of the teachings of Gach or Graboski. Flanagan teaches a container cap having a removable liner with a tear member, which tear member can be pulled to remove the liner from the cap. However, in contrast to Applicants' claimed process, Flanagan does not teach or suggest induction heat sealing a liner to both a container and a cap to completely seal both the container and the cap. Instead, Flanagan teaches that "[t]he liner 8 may be adhered to the rim 17 of the container, or to the underside of the base cap 3." Flanagan at col. 5, lines 43-44; *see also* Flanagan at col. 4, lines 34-40. According to one embodiment, Flanagan's liner is secured to Flanagan's cap. Flanagan at col. 8, lines 14-30. According to another embodiment, Flanagan's liner is secured to Flanagan's container with an adhesive. Flanagan at col. 8, lines 31-41.

Accordingly, for at least the reasons given above, Applicants submit that independent claims 12 and 16 are patentable over Gach, Graboski and Flanagan, either alone or in combination.

Rejection Under 35 U.S.C. § 103: Gach in view of Graboski, Flanagan and Kitahora

In the final Office action, claim 13 was rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Gach in view of Graboski and Flanagan, and further in view of U.S. Patent No. 6,076,334 to Kitahora (“Kitahora”). Applicants respectfully traverse the rejection and submit that claim 13 is patentable over the cited references.

Gach, Graboski and Flanagan were discussed above with respect to independent claim 12. Applicants submit that Kitahora does not cure the deficiencies of the teachings of Gach, Graboski or Flanagan. Kitahora teaches a method for sterile packaging of beverages in plastic containers. However, in contrast to Applicants’ claimed process, Kitahora does not teach or suggest a neck and cap assembly that is pre-sealed with a foil. Additionally, Kitahora does not teach or suggest a foil that is sealed to both a cap assembly and a bottle following an induction heat sealing step.

Accordingly, for at least the reasons given above, Applicants submit that claim 13 is patentable over Gach, Graboski, Flanagan and Kitahora, either alone or in combination.

Rejection Under 35 U.S.C. § 103: Gach in view of Graboski, Flanagan and Kauffman

In the final Office action, claims 14 and 15 were rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Gach in view of Graboski and Flanagan, and further in view of U.S. Patent No. 4,141,680 to Kauffman *et al.* (“Kauffman”). Applicants respectfully submit that claims 14 and 15 are patentable over the cited references.

Gach, Graboski and Flanagan were discussed above with respect to independent claim 12. Applicants submit that Kauffman does not cure the deficiencies of the teachings of Gach, Graboski or Flanagan. Kauffman teaches a blow molding apparatus. However, in contrast to Applicants’ claimed process, Kauffman does not teach or suggest a neck and cap assembly that is pre-sealed with a foil. Additionally, Kauffman does not teach or suggest a foil that is sealed to both a cap assembly and a bottle following an induction heat sealing step.

Accordingly, for at least the reasons given above, Applicants submit that claims 14 and 15 are patentable over Gach, Graboski, Flanagan and Kauffman, either alone or in combination.

CONCLUSION

In view of the foregoing remarks, Applicants respectfully request allowance of claims 12-17. Applicants request that the Examiner call Applicants' undersigned attorney to schedule an interview before the next Office action to discuss the patentability of the claims.

Respectfully submitted,

Date: October 26, 2009
Reg. No. 58,343

Tel. No.: (617) 261-3216
Fax No.: (617) 261-3175

/Karen A. Sinclair/
Karen A. Sinclair
Attorney for Applicants
K&L Gates LLP
State Street Financial Center
One Lincoln Street
Boston, Massachusetts 02111-2950